

REMARKS

In response to the Office Action dated January 27, 2006, and further in response to the Notice of Non-Compliant Amendment dated July 13, 2006, Applicant respectfully requests favorable reconsideration of the above-captioned application in view of the above-indicated amendments in conjunction with the following remarks. Claims 1-4, 6-30, and 32-55 are currently pending in the application.

Regarding the Notice of Non-Compliant Amendment

The July 13, 2006 Notice of Non-Compliant Amendment states that the April 27, 2006 Amendment is non-compliant for two reasons. First, the Notice states that the claims are not presented on a separate sheet. Second, the Notice states that, in essence, the arguments are not fully responsive because the arguments presented for claim 1 do not address the separate bases in which the Office Action has rejected other independent claims. The Notice specifically cites claims 12 and 19 as two claims which are not adequately addressed by the Applicant's arguments presented for claim 1.

As to the first issue, in this Response, the Applicant has listed the claims starting on a separate sheet, without prefatory heading information. As to the second issue, in this Response, the Applicant has expanded the arguments directed to the independent claims.

Regarding the 35 U.S.C. § 103 Rejections

Claims 1-4, 10-12, 14-21, 26-30, 32-37, 41-47, and 49-55 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,189,146 to Misra (referred to below as "Misra") in view of U.S. Published Application No. 2003/0160823 to Stannard (referred to as below as "Stannard"). Claims 5-9, 13, 22-25, 31, 38-40, and 48 are rejected over Misra as applied to claims 1, 12, 30, 35, 41, 43, and 49 "in view of

1 obviousness" (note paragraph No. 9 of the Office Action). The Applicant respectfully
2 traverses these rejections for the following reasons.

3 Prior to addressing the rejection, it is believed that the Patent Office may once
4 again benefit from a brief review of exemplary aspects of the subject matter disclosed in
5 the specification. The detailed description in the specification does not limit the claims.
6 Nevertheless, an understanding of certain salient features of the subject matter described
7 in the specification will help the Patent Office better appreciate the distinction between
8 the claims (to be discussed below) and the Misra and Stannard references.

9 One aspect of the subject matter described in the specification pertains to issuance
10 of a pool of available licenses to clients in an efficient manner. More specifically, one
11 problem encountered in the art is that licenses installed on client computers become
12 "lost." This happens, for example, when the client computers are reconfigured. The
13 effect of losing licenses is that the clients cannot make efficient use of licenses. For
14 example, through the loss of licenses, the clients may exhaust an available supply of
15 licenses, requiring that the clients purchase more licenses, even though the lost licenses
16 remain valid.

17 The specification describes a solution to this problem "through leasing licenses to
18 clients and continually expiring and re-leasing them in a way that nets out the overall
19 distribution of purchased licenses" (page 10, lines 18 and 19). Namely, in one
20 implementation, the invention expires licenses when the clients do not take actions which
21 cause the licenses to be updated and reissued within a specified period of time, thus
22 adopting a "use it or lose it" approach to license management. The expired licenses go
23 back into an available pool of licenses for other clients to use, thus reducing the
24 inefficiencies discussed above, e.g., where "lost" licenses remain valid but cannot be
25 used.

1 Misra, in part, also identifies a strategy for addressing the problem of lost
2 licenses. Consider the following exemplary passages of Misra that have a bearing on
3 Misra's technique for addressing the problem of lost licenses:

4
5 When a license is requested, the license server initially checks if the requesting
6 client has already been issued a license. When this situation is detected, the license server
7 issues the *existing* license to the client. This is actually reissuing of the *same license* that was
8 previously issued. This allows the client to gracefully recover licenses when they are lost.
9 (column 3, lines 1-7, emphasis added)

10

11 When a client 30 connects to the intermediate server 32, it must present a valid
12 license. If the client does not have an appropriate license, the intermediate server 32 assists
13 the client in obtaining a license from the license server 28. This provides an automated
14 mechanism for distributing licenses to clients. The license server 28 initially checks if the
15 requesting client already has been issued a license. When this situation is detected, the
16 license server 28 issues the *existing license* to the client. This allows the client to gracefully
17 recover licenses when they are lost. (column 4, lines 49-58, emphasis added)

18

19 The license cache 136 is kept in persistent (non-volatile) storage. Clients that do
20 not have persistent storage can be issued licenses as long as they can generate a unique client
21 ID and can respond to the client platform challenge protocol. The licensing system handles
22 this case in the same way it recovers lost licenses. On connect, the intermediate server
23 contacts the license server for a new license. The license server realizes, through the system
24 ID, that the license has already been issued. In this case, the *old license* is simply returned to
25 the client. Clients that cannot generate a system ID or respond to the platform challenge

1 protocol use the legacy licenses stored in the legacy license store 130 at the intermediate
2 server 32. (column 12, lines 15-27, emphasis added)

3

4 At step 200 in FIG. 6, the license server determines whether the response is proper,
5 and hence, whether the client is authentic. If the client is authenticated (i.e., the "yes" branch
6 from step 200), the license server proceeds with granting a software license. The license
7 server 28 first queries the secure license store 112 to determine if a license for that client
8 has already been issued (step 202). This procedure accommodates the case in which the
9 client has lost its valid software license. If a non-expired license is found, the license server
10 28 forwards it to the client 30. (column 15, lines 9-18)

11
12 In brief, the above-cited passages of Misra describe, in part, a way for a client to
13 obtain its old license in the event that the old license is lost (e.g., Misra states that the
14 "old license is simply returned to the client" (column 12, lines 23-24)). This does not
15 pertain to the technique described in the instant specification of purposely expiring a
16 license under a "use it or lose it" policy, and, if the license becomes expired, allowing
17 another client to potentially use this license.

18 Indeed, consider the following additional passage of Misra:

19
20 To prevent the software license from being copied from one client machine to
21 another, the *software license is assigned to the specific client* by including its client ID within
22 the license. The software license also has a corresponding *license ID that is associated with*
23 *the client ID* in the client assignment table 116 in the secure license store 112 at the license
24 server. The contents of the license are described above in Table 5. (column 15, lines 29-36,
25 emphasis added)

1
2 The fact that a license ID is associated with a client ID suggests that the above-cited
3 passage of Misra does not contemplate that a license is freed up if not used by one client
4 prior to the license's expiration date, and then potentially used by another client.

5 Stannard discloses a licensing management system and method that allows a
6 graphics program to be sampled by a potential customer while still motivating the
7 potential customer to purchase a license. In Stannard's technique, drawing objects not
8 having a valid license can be used within the graphics application in the same capacity as
9 licensed objects except that the unlicensed objects are marked with a tag indicating that
10 the objects are not licensed. Note paragraph No. 7 of Stannard. Stannard also discloses a
11 protocol for updating licenses, as reflected in the following excerpts:

12
13 [0073] When a license is updated to reflect a new expiration date or other change,
14 the license record for the license is determined in the license table 800 and overwritten with
15 the *new license record*. (paragraph No. 73, emphasis added)
16

17 [0074] In the exemplary embodiment, the user obtains a subscription for a particular
18 library set by purchasing a license having an expiration time. The license allows the user to
19 download and use newly developed libraries related to the originally licensed library 300
20 without additional costs. The objects 102 from the libraries (300) will appear without the
21 unlicensed tags since the local processor 702 contains the appropriate license. For example,
22 if the user purchasing a license for a flow chart library that is valid for one year, the user may
23 download new flow chart libraries for the year without the need for additional licenses and
24 without having the unlicensed tags appear on the objects 102 from the new licenses. *After*
25 *the license expires, the user may continue to use the libraries (300) obtained during the*

1 *license period without the objects 102 appearing with the tags 104. Any objects 102*
2 *contained in libraries (300) having creation dates subsequent to the expiration date of the*
3 *license, however, will appear with the unlicensed tag 104. (paragraph No. 74, emphasis*
4 *added)*

5
6 [0075] Preferably, the user receives, through electronic mail, a message from the
7 server computer indicating that new libraries have been created for the licenses that the user
8 has obtained. In the exemplary embodiment, an electronic mail message is transmitted at
9 four times per year to the user from the server computer 720. *The server computer 720*
10 *maintains a data base of all users that have purchased a license and corresponding*
11 *expiration dates. The server computer 720 sends an electronic mail message to warn the*
12 *user that a particular license is near its expiration date. The user is reminded that the*
13 *objects 102 within new libraries (300) will be displayed with an unlicensed tag 104 unless a*
14 *new license is obtained. (paragraph No. 75, emphasis added)*

15
16 [0076] In an alternate embodiment, a user may purchase an updated license at a
17 lower cost than a new license for the same library set. If a license update is purchased, the a
18 license loading file is transmitted as explained above. *The license record will only be stored*
19 *in the license table 800 if an earlier license corresponding to the library set exists in the*
20 *license table 800 exists. (paragraph No. 76, emphasis added)*

21
22 To summarize, in one implementation, Stanndard describes a protocol for sending
23 a reminder to a user to warn the user that a particular license is near its expiration date.
24 When a license is updated to reflect a new expiration date or other change, the license
25 record for the license is determined in the license table 800 and overwritten with the new

1 license record. Thus, while Stannard apparently provides a mechanism to update
2 licenses, Stannard discloses no concept of purposely expiring a license under a “use it or
3 lose it” policy, and, if the license becomes expired, allowing another client to potentially
4 use this license. In other words, there is no suggestion in Stannard that if a user fails to
5 update a license then the license that is allocated to the user will be re-allocated to an
6 available pool of licenses for the use of other users. This deficiency is not surprising
7 because Stannard is not in the least bit concerned with what happens when a license is
8 lost.

9 Now turning to the claims, there are nine independent claims rejected under 35
10 U.S.C. § 103(a), namely, claims 1, 2, 12, 16, 19, 30, 35, 41, and 43. Each of these claims
11 recite one or more elements that the combination of Misra and Stannard do not disclose.

12 Claim 1 is reproduced below with emphasis:

13
14 1. A method of managing a software license, comprising:
15 issuing a license to a client, the license having an expiration date;
16 receiving a license request from the client during a license update period;
17 in response to the license request, providing a new expiration date for the license; and
18 reissuing the license with the new expiration date to the client,
19 *wherein the method further comprises making the license available to be issued to any*
20 *client if the client does not provide a license request.*

21
22 Neither Misra nor Stannard disclose at least the element of claim 1 that
23 recites “wherein the method further comprises making the license available to be
24 issued to any client if the client does not provide a license request,” in
25 combination with the other elements recited in claim 1 when the claim is read as a

1 whole. As noted above, for instance, Misra allows a user to retrieve a previously
2 issued license, but Misra does not suggest that a lost license is made available to
3 be issued to any client. Stannard is likewise deficient. Stannard provides a
4 protocol that alerts a user when a license is about to expire, but when that license
5 does expire, Stannard does not disclose a technique that makes such a license
6 available to be issued to any client.

7 As stated in MPEP § 2143.01, to establish prima facie obviousness of a
8 claimed invention, all the claim limitations must be taught or suggested by the
9 prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in
10 a claim must be considered in judging the patentability of that claim against the
11 prior art.” *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970). Since
12 at least one of the elements of claim 1 is not met by the applied art, then the art
13 fails to render claim 1 obvious under 35 U.S.C. § 103(a), even if the individual
14 references are considered in combination.

15 The remaining independent claims, i.e., claims 2, 12, 16, 19, 30, 35, 41 and
16 43, recite related subject matter to that set forth in claim 1. Therefore, these independent
17 claims distinguish over the applied art for reasons similar to those presented above.

18 For instance, claims 2, 16, and 19, recite, in part, the feature that “wherein the
19 method further comprises making the license available to be issued to any client if the
20 client does not provide a license request.” Neither Misra nor Stannard disclose this
21 feature, in combination with the other features recited in claims 2, 16, and 19, for reasons
22 similar to those presented above. That is, while licenses can become expired in the
23 combination of Misra and Stannard, there is no indication in these references that the
24 licenses are made “available to be issued to any client.” The passages cited in the Office
25

1 Action (column 16, lines 59-63, column 15, lines 13-16, and column 17, lines 8-12 of
2 Misra) do not describe the above-identified feature of claims 2, 16, and 19.

3 Independent claim 12 is reproduced below in full with emphasis:

4
5 12. A method of managing a software license, comprising:

6 receiving a license request from a client;

7 determining that the expiration date of a license previously issued to the client has been
8 reached, *resulting in the return of the license to an available pool of licenses*;

9 reissuing the license to the client if the license is available, the reissued license having a
10 new expiration date;

11 issuing a new license to the client if a new license is available and the previously issued
12 license is not available, the new license having a new expiration date; and

13 denying the client access to software resources if the previously issued license is not
14 reissued and a new license is not issued.

15
16 The combination of Misra and Stannard does not disclose at least the feature of
17 “resulting in the return of the license to an available pool of licenses” in combination
18 with the other features of the claim when read as a whole, for reasons similar to those
19 presented above. That is, while licenses can become expired in the combination of Misra
20 and Stannard, there is no indication in these references that the licenses are returned to an
21 “available pool of licenses.” The passages cited in the Office Action do not describe the
22 above-identified feature of claims 12.

23 Independent claim 30 is reproduced in full below with emphasis:
24
25

1 30. A method comprising:

2 receiving a license to access software resources, the license having an expiration date;

3 making a license request after the expiration date has been reached, *at which time the*
4 *license has been returned to an available pool of licenses;*

5 receiving the license as a reissued license if the license is available, the reissued license
6 having a new expiration date;

7 receiving a new license if a new license is available and the license is not available, the
8 new license having a new expiration date; and

9 being denied access to the software resources if a reissued license or a new license is not
10 received as a result of the license request.

11
12 The combination of Misra and Stannard does not disclose at least the feature of
13 “at which time the license has been returned to an available pool of licenses” in
14 combination with the other features of the claim when read as a whole, for reasons
15 similar to those presented above. That is, while licenses can become expired in the
16 combination of Misra and Stannard, there is no indication in these references that the
17 licenses are “returned to an available pool of licenses.” The passages cited in the Office
18 Action do not describe the above-identified feature of claims 30.

19 Independent claim 35 is reproduced below with emphasis:

20
21 35. A license server comprising:

22 *an available license pool to store licenses;*

23 an assigned license pool to store information regarding licenses assigned
24 to clients;

25 a request handling module to receive a license request;

1 a new license module to search the available license pool, setting an expiration date on a
2 new license if a new license is available, and issuing the new license to a client; and
3 *a license clean-up module operating periodically to review the assigned*
4 *license pool and return any license to the available license pool which is found to have reached*
5 *its expiration date.*

6
7 The combination of Misra and Stannard does not disclose at least the features of
8 “an available license pool to store licenses” and “a license clean-up module operating
9 periodically to review the assigned license pool and return any license to the available
10 license pool which is found to have reached its expiration date,” in combination with the
11 other features of the claim when read as a whole, for reasons similar to those presented
12 above. That is, while licenses can become expired in the combination of Misra and
13 Stannard, there is no indication in these references of a “license clean-up module
14 operating periodically to review the assigned license pool and return any license to the
15 available license pool which is found to have reached its expiration date.” The passages
16 cited in the Office Action do not describe the above-identified feature of claims 35.

17 Independent claim 41 is reproduced in full below with emphasis:

18
19 41. A terminal server, comprising:

20 a database to provide terminal server resources to a client;

21 a client access module executing on the one or more processors for allowing access to
22 the terminal server resources by a client having a license and denying access to the terminal
23 server resources by a client not having a license; and,

24 a license request module to:

25 obtain a license for an unlicensed client that connects to the terminal server;

1 *obtain a license update for a licensed client that connects to the terminal server*
2 *during a license update period, and make the license available to other clients if the*
3 *client fails to connect to the terminal server during the license update period; and*
4 obtain a license update or a new license for a previously licensed client
5 connecting to the terminal server after the license update period.

6
7 The combination of Misra and Stannard does not disclose at least the feature of a
8 license request module which is configured to “obtain a license update for a licensed
9 client that connects to the terminal server during a license update period, and make the
10 license available to other clients if the client fails to connect to the terminal server during
11 the license update period” in combination with the other features of the claim when read
12 as a whole, for reasons similar to those presented above. That is, while licenses can
13 become expired in the combination of Misra and Stannard, there is no indication in these
14 references that the licenses are made “available to other clients if the client fails to
15 connect to the terminal server during the license update period.” The passages cited in
16 the Office Action do not describe the above-identified feature of claims 41.

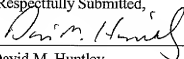
17 Finally, the remaining claims are dependent claims. Misra and Stannard do not
18 disclose the subject matter of any of the dependent claims at least by virtue of the fact
19 that these references do not disclose the subject matter of these dependent claims’
20 respective independent claims.
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1 *Conclusion*

2 The arguments presented above are not exhaustive; Applicant reserves the right to
3 present additional arguments to fortify its position. Further, Applicant reserves the right
4 to challenge the alleged prior art status of one or more documents cited in the Office
5 Action.

6 All objections and rejections raised in the Office Action having been addressed, it
7 is respectfully submitted that the present application is in condition for allowance and
8 such allowance is respectfully solicited. The Examiner is urged to contact the
9 undersigned if any issues remain unresolved by this Amendment.

10
11
12 Dated: August 14, 2006

13 Respectfully Submitted,
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